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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,915	03/30/2001	Takashi Sumada	0505-0798P	3432
2292	7590	10/18/2004	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH			BROWN, VERNAL U	
PO BOX 747			ART UNIT	
FALLS CHURCH, VA 22040-0747			PAPER NUMBER	

2635

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/820,915

Applicant(s)

SUMADA ET AL.

Examiner

Vernal U Brown

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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### **DETAILED ACTION**

This action is responsive to communication filed on July 26, 2004.

#### ***Response to Amendment***

The examiner has acknowledged the amended claims 1 and 8.

#### ***Response to Arguments***

Applicant's arguments filed July 26, 2004 have been fully considered but they are not persuasive.

Regarding applicant's argument concerning the electronic locking mechanism of Joao would be mounted on the main body of the trunk and not on a lid, the reference of Heskier is relied upon for teaching the mounting of the electronic locking mechanism on the lid of a trunk (col. 4 lines 17-20) and also teaches shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32).

Regarding applicant's argument concerning the reference of McMahon, the reference of McMahon is relied upon for teaching the conventional mounting of the antenna on the highest point and central position of the vehicle (figure 1) so as to improve the reception.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of McMahon U.S Patent 3908168 and further in view of Hesker U.S Patent 6351242.

Regarding claim 1, Morinaka et al. teaches a trunk assembly for a saddle type vehicle having a locking mechanism for securing the saddlebag (col. 4 lines 6-7). Morinaka et al. is however silent on teaching the trunk assembly is remote controlled and having a radio signal receiving unit. Joao in an art related security apparatus invention teaches the use of electronic locking mechanism for vehicle trunks (col. 27 lines 56-62) and (col. 22 lines 45-54) and the trunk electronic locking mechanism is also applicable to the motorcycle trunk (col. 21 lines 14-24). Morinaka et al. in view Joao is however silent on teaching the radio receiving trunk assembly is mountable in a projection formed outside on top of the rear trunk. McMahon in an art related radio transmission system teaches a radio receiving circuit (12) mounted in the rear of the motorcycle in the position of the trunk (figure 1) but is also silent on teaching the radio receiving unit is disposed inside the projection. The reference of Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage.

It would have been obvious to one of ordinary skill in the art for the radio receiving trunk assembly is mountable in a projection formed outside on top of the rear trunk in Morinaka et al. in view Joao as evidenced by McMahon because. Morinaka et al. in view Joao suggests a radio receiving trunk and McMahon teaching the mounting of a

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radio receiving circuit on a motorcycle in the location of the trunk. One skilled in the art further recognizes that the placement of the radio receiving circuit on top of the trunk represents the highest point which is the location for the placement of a radio receiving circuit for the best reception of signal. Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit in order to protect the receiver from damage.

Regarding claim 2, Morinaka et al. in an art related Motorcycle with trunk invention teaches a motor vehicle having a rear trunks and a pair of side trunks (col. 1 lines 48-50).

Regarding claim 3, Morinaka et al. teaches an opening/closing lever (shaft) provided in the central trunk (col. 5 line 60-col. 6 line 6). The central trunk (24) as disclosed by Morinka et al. is in the same position as the rear trunk (20C) as disclosed by the applicant, therefore the opening/closing lever as taught by Morinaka et al. evidenced the location of the lever in the rear trunk.

Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of McMahon U.S Patent 3908168 and further in view of Hesker U.S Patent 6351242.

Regarding claims 4-5, Morinaka et al. in view of Joao in view of McMahon teaches a radio receiving trunk as discuss in the response to claim 1 above but is however silent on teaching a radio receiving trunk mountable on a rear portion of a vehicle body.

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Hesker in an art related vehicle remote invention teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage.

It would have been obvious to one of ordinary skill in the art to mount the radio receiving assembly in a rear position of the vehicle body and the radio receiving trunk assembly having a projection formed on top of the rear trunk in Morinaka et al. in view of Joao in view of McMahon as evidenced by Hesker because in view of Joao in view of McMahon suggests a radio receiving trunk mounted in the rear of the vehicle and Hesker teaches mounting a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit in order to protect the receiver from damage.

Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morinaka et al. U.S Patent 5025883 in view of Joao U.S Patent 6542076 in view of McMahon U.S Patent 3908168 in view of Hesker U.S Patent 6351242 in view of Yamaura et al. U.S Patent 6292107 and further in view of Kusunoki U.S Patent 5763957.

Regarding claims 6 -7, Morinaka et al. in view of Joao in view of McMahon in view of Heska teaches a radio receiving trunk (see response to claim 1) but is however silent on teaching a switch for detecting the trunk lid is open or closed and outputting the result to the radio signal receiving unit and a trunk catcher to pop up the lid simultaneously with unlocking the lid. Yamaura et al. in an art related Keyless entry system teaches the locking and locking of a trunk by a lock mechanism (col. 10 lines 20-26) and a trunk catcher (44) to pop up the trunk (col. 10 lines 25-26). A switch for

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detecting whether a trunk lid is open or closed is commonly used in motor vehicles as evidenced by Kusunoki (col. 3 lines 47-57).

It would have been obvious to one of ordinary skill in the art to have a switch for detecting the trunk lid is open or closed and outputting the result to the radio signal receiving unit and a trunk catcher to pop up the lid simultaneously with unlocking the lid in Morinaka et al. in view of Joao in view of McMahon in view of Heska as evidenced by Yamaura et al. in view of Kusunoki because Morinaka et al. in view of Joao in view of McMahon suggests a radio receiving trunk and Yamaura et al. teaches the locking and locking of a trunk by a lock mechanism and a trunk catcher to pop up the trunk and a switch for detecting whether a trunk lid is open or closed is commonly used in motor vehicles as evidenced by Kusunoki.

Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kusunoki U.S Patent 5763957 in view of in view of Hesker U.S Patent 6351242 and further in view of McMahon U.S Patent 3908168.

Regarding claim 8, Kusunoki teaches a remote controller for a remote control trunk assembly (figure 1), the trunk assembly including at least one lid, an opening/closing mechanism for permitting and rejecting the opening and closing of each of the lid (col. 3 lines 25-32), a radio signal receiving unit (6A) which receives a radio signal for remotely operating the opening/closing mechanism (col. 3 lines 24-25), a locking/unlocking button for locking/unlocking the trunk (col. 3 lines 47-57) and a pop-up button (5) for unlocking and popping-up the trunk (col. 4 line 1). Kusunoki is however silent on teaching the radio receiving unit is disposed on top of the trunk. Hesker in an art related vehicle remote invention teaches mounting a radio receiving unit in a

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trunk lid or shaped adaptation for accumulating the radio receiver unit (col. 4 lines 29-32) in order to protect the receiver from damage. McMahon in an art related radio transmission system also teaches a radio receiving circuit (12) mounted in the rear of the motorcycle in the position of the trunk (figure 1).

It would have been obvious to one of ordinary skill in the art to disposed the radio receiving unit on top of the trunk in Kusumoki as evidenced by Hesker because Kusumoki suggests a remote controller for controlling a trunk assembly and Hesker teaches a radio receiving unit in a trunk lid or shaped adaptation for accumulating the radio receiver unit and Morinaka et al. in view Joao suggests a radio receiving trunk and McMahon teaching the mounting of a radio receiving circuit on a motorcycle in the location of the trunk. One skilled in the art further recognizes that the placement of the radio receiving circuit on top of the trunk represents the highest point which is the location for the placement of a radio receiving circuit for the best reception of signal.

Regarding claim 9, Kusumoki teaches transmitting a radio signal to the receiving unit (col. 3 lines 12-21) and a switch (5) to control the actuator.

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*Conclusion*

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vernal U Brown whose telephone number is 571-272-3060. The examiner can normally be reached on 8:30-6:30 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on 571-272-3068. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Vernal Brown  
October 13, 2004

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